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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 SHARON ELAINE BURLESON,

9 Plaintiff,

10 v.

11 SECURITY PROPERTIES  
12 RESIDENTIAL, LLC, *et al.*,

13 Defendants.

CASE NO. C18-0513RSL

ORDER GRANTING IN PART  
DEFENDANTS' MOTIONS TO  
DISMISS FOR LACK OF  
PERSONAL JURISDICTION

14 Currently pending before the Court are two motions to dismiss challenging this  
15 Court's power to exercise personal jurisdiction over defendants Spagnola, Carpenter,  
16 Witte, Miller, and Malpasuto. Dkt. # 31 at 10-14 and Dkt. # 36 at 6-13. Plaintiff has the  
17 burden of demonstrating that the Court may exercise personal jurisdiction over each  
18 individual defendant. In re W. States Wholesale Natural Gas Antitrust Litig., 715 F.3d  
19 716, 741 (9th Cir. 2013). Plaintiff has not provided any evidence regarding defendants'  
20 contacts with the State of Washington, so the Court evaluates the uncontroverted  
21 allegations of the Second Amended Complaint to determine whether she has properly  
22 alleged contacts with the forum such that the individual defendants "should reasonably  
23 anticipate being haled into court" here. World-Wide Volkswagen v. Woodson, 444 U.S.  
24 286, 297 (1980); Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797, 800 (9th Cir.

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1 2004).

2 Plaintiff alleges that the owner of her apartment building and the third-party  
3 company it used to bill tenants for services charged her excessively high rates for water,  
4 sewer, and trash utilities, that the rates she paid were higher than those paid by other  
5 tenants, that she is African American and has a left side deficit, and that the excessive  
6 charges were motivated by her race and/or disability. The individual defendants are  
7 associated with the third-party billing company, American Utility Management, Inc.  
8 (“AUM”). Spagnola is an employee in AUM’s Illinois offices and is a resident of  
9 Illinois. She communicated with plaintiff and the property manager on a number of  
10 occasions regarding plaintiff’s objections to the charges and requests for information  
11 regarding how her utility bills were calculated each month. Carpenter, Witte, Miller, and  
12 Malpasuto are officers of AUM. All reside in Illinois. Plaintiff does not allege that she  
13 had any contact with these defendants. The only allegations against them are that, as  
14 officers of AUM, they must have registered AUM to do business in Washington, they  
15 must have designed and provided content for AUM’s website which can be seen by  
16 Washington residents, and they must have directed AUM’s methodology for allocating  
17 utility costs to individual tenants and are therefore responsible for the overcharges of  
18 which she complains.

19 Pursuant to Fed. R. Civ. P. 4(k)(1)(A), federal courts ordinarily follow state law  
20 when determining the extent to which they can exercise jurisdiction over a person.  
21 Daimler AG v. Bauman, 571U.S. 117, 125 (2014). The Washington Supreme Court has  
22 held that, despite the rather narrow language used in Washington’s long-arm statute,  
23 RCW 4.28.185, the statute “extends jurisdiction to the limit of federal due process.”  
24 Shute v. Carnival Cruise Lines, 113 Wn.2d 763, 771 (1989). The Court therefore need

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1 determine only whether the exercise of jurisdiction comports with federal constitutional  
2 requirements. Easter v. Am. W. Fin., 381 F.3d 948, 960 (9th Cir. 2004).

3 In order to justify the exercise of jurisdiction over a non-resident under the  
4 federal constitution, plaintiff must show that the individual defendants had “certain  
5 minimum contacts with [the forum] such that the maintenance of the suit does not offend  
6 traditional notions of fair play and substantial justice.” Int’l Shoe Co v. Washington, 326  
7 U.S. 310, 316 (1945) (internal quotation marks omitted). Two different categories of  
8 personal jurisdiction have developed, namely “general jurisdiction” and “specific  
9 jurisdiction.” “A court may assert general jurisdiction over foreign (sister-state or  
10 foreign-country) [defendants] to hear any and all claims against them when their  
11 affiliations with the State are so ‘continuous and systematic’ as to render them  
12 essentially at home in the forum State.” Goodyear Dunlop Tires Operations, S.A. v.  
13 Brown, 564 U.S. 915, 919 (2011) (quoting Int’l Shoe, 326 U.S. at 317). Specific  
14 jurisdiction, on the other hand, “focuses on the relationship among the defendant, the  
15 forum, and the litigation” and exists when “the defendant’s suit-related conduct [creates]  
16 a substantial connection with the forum State.” Walden v. Fiore, 571 U.S. 277, 283-84  
17 (2014) (internal quotation marks and citations omitted). Plaintiff has not made any  
18 allegations that could support the imposition of general jurisdiction, so the Court must  
19 determine whether it can assert specific jurisdiction over the individual defendants in  
20 this case.

21 The state’s authority to bind a non-resident defendant is justified only if there is a  
22 sufficient connection between the defendant, the forum, and the cause of action.  
23 Helicopteros Nacionales de Columbia, SA v. Hall, 466 U.S. 408, 413-14 (1984). The  
24 Ninth Circuit applies a three-prong test when determining whether to exercise specific  
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1 jurisdiction over a non-resident:

2 (1) The non-resident defendant must purposefully direct his activities or  
3 consummate some transaction with the forum or resident thereof; or  
4 perform some act by which he purposefully avails himself of the privileges  
5 of conducting activities in the forum, thereby invoking the benefits and  
6 protections of its laws;

7 (2) the claim must be one which arises out of or relates to the defendant's  
8 forum-related activities; and

9 (3) the exercise of jurisdiction must comport with fair play and substantial  
10 justice, *i.e.*, it must be reasonable.

11 Dole Food Co., Inc. v. Watts, 303 F.3d 1104, 1111 (9th Cir. 2002). Although not  
12 entirely clear from the Second Amended Complaint or her memorandum, it appears that  
13 plaintiff is arguing that the individual defendants purposefully directed<sup>1</sup> their activities at  
14 Washington.

15 Plaintiff has not identified any conduct on the part of Carpenter, Witte, Miller or  
16 Malpasuto that was directed at a resident of Washington. Although AUM may be  
17 subject to this Court's jurisdiction in light of its on-going contracts and obligations  
18 toward Washington residents, its contacts cannot be imputed to its officers, agents, or  
19 employees who did not participate in the alleged wrongful conduct. Plaintiff must show  
20 - or at least allege - that each named defendant had minimum contacts with the forum  
21 state before they can be haled into court here. The only conduct alleged against  
22 Carpenter, Witte, Miller, or Malpasuto that might constitute an act or transaction aimed

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23 <sup>1</sup> The allegations do not support the exercise of jurisdiction based on the separate  
24 purposeful availment theory. Defendants' - as opposed to AUM's - conduct and  
25 communications were not made in Washington, did not create a continuing relationship  
26 between themselves and a forum resident, conferred no benefit, privilege, or protection on  
themselves under Washington law, and were not subject to the state's regulation.

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1 at the forum state is the registration of AUM to do business in Washington and the  
2 design and content of a website accessible in Washington.<sup>2</sup> Even if that conduct satisfied  
3 the first element of the three-prong test, registering a corporation and/or designing a  
4 website did not give rise to plaintiff's claims of racial and disability discrimination.  
5 Thus, plaintiff has not met her burden of showing that these defendants directed their  
6 acts toward Washington and that those acts gave rise to her causes of action.

7 With regards to Spagnola, plaintiff alleges that Spagnola communicated with  
8 both plaintiff and the property manager of her building on numerous occasions  
9 regarding plaintiff's objections to the excessive and discriminatory utility rates. As the  
10 point person for contact between AUM and its clients, it is reasonable to infer that  
11 Spagnola was aware of the location of the building and that she was communicating  
12 with residents of the forum. Plaintiff's claims arise in part out of those communications  
13 insofar as Spagnola refused to provide a monthly calculation of the utility bills, took no  
14 steps to remedy the excessive charges, and/or furthered the discriminatory billing  
15 practices of which plaintiff complains. Spagnola argues that she cannot be held liable or  
16 subjected to the Court's jurisdiction because all of her actions were taken within the  
17 scope of her employment with AUM. Corporate employment is not a shield to personal  
18 wrongdoing, however. The fact that a corporation's wrongful acts will not automatically  
19 be imputed to its officers, directors, agents, or employees does not mean that the  
20 individuals who actually participated in the wrong cannot be haled into court to answer

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22 <sup>2</sup> Most courts that have considered this issue have determined that maintaining a  
23 webpage on the internet does not subject the owner of the website to personal jurisdiction in  
24 every state where the website is accessible. Something more is needed before a website that can  
25 be accessed from anywhere will be considered "purposeful direction" at a particular forum.  
26 See, e.g., Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1156-58 (9th Cir. 2006) (holding that  
"something more" than an internet domain name and passive website are necessary to subject a  
party to jurisdiction).

1 for those wrongs. Perkumpulan Investor Crisis Center Dressel-WBG v. Regal Fin.  
2 Bancorp, Inc., 781 F. Supp.2d 1098, 1117 (W.D. Wash. 2011).

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4 For all of the foregoing reasons, Spagnola, Carpenter, and Witte's motion to  
5 dismiss for lack of personal jurisdiction (Dkt. # 31 at 10-14) is GRANTED as to  
6 Carpenter and Witte and DENIED as to Spagnola. Miller and Malpasuto's motion to  
7 dismiss for lack of personal jurisdiction (Dkt. # 36 at 6-13) is GRANTED.

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9 Dated this 5th day of September, 2018.

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11 Robert S. Lasnik  
12 United States District Judge  
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